

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CALEB D. MCKEAN,

Plaintiff,

v.

**CALEB D. MCKEAN, SR., and the
DISTRICT OF COLUMBIA,**

Defendants.

Case No. 3:17-cv-612-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on July 18, 2017. ECF 8. Judge You recommended that this action be dismissed *sua sponte* without leave to amend.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

Plaintiff timely filed an objection. ECF 11. No defendant has entered an appearance or responded to Plaintiff's objection. Plaintiff objects to Judge You's finding that the District of Columbia became the capitol in 1800. The Court has reviewed *de novo* the portions of Judge You's Findings and Recommendation to which Plaintiff has objected. The Court agrees with Judge You's findings and ADOPTS these portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge You's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge You's Findings and Recommendation, ECF 8. This action is **DISMISSED** without leave to amend. The Court further finds that any appeal from this Order would not be taken in good faith and Plaintiff's in forma pauperis status should be revoked pursuant to 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

DATED this 7th day of August, 2017.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge